

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 07-20501-BC
Honorable Thomas L. Ludington

WAYNE THOMAS DUFFINEY,

Defendant.

/

**ORDER GRANTING DEFENDANT'S MOTION
FOR PSYCHIATRIC EVALUATION,
REFERRED MATTER TO MAGISTRATE JUDGE,
AND DETERMINING EXCLUDABLE DELAY**

On December 10, 2007, Defendant Wayne Duffiney filed a motion for an evaluation to determine his competency to stand trial. His counsel represents that Defendant has a history of psychiatric disorders for which he has received and continues to receive medical attention. The government filed a response, stating that it does not oppose such a psychiatric evaluation of Defendant.

18 U.S.C. § 4241(a) provides:

At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, . . . the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, . . . if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Defendant has thus filed a motion for an evaluation to determine mental competency prior to sentencing and after commencement of prosecution. The government has filed no opposition.

Accordingly, it is **ORDERED** that Defendant's motion for a psychiatric evaluation [dkt #14] is **GRANTED**.

It is further **ORDERED** that this matter is **REFERRED** to Magistrate Judge Charles E. Binder, pursuant to 28 U.S.C. § 636, to arrange for the psychiatric examination of Defendant and to conduct a competency hearing in which a report should state the examiner's opinion as to Defendant's mental competency, in light of and in accordance with 18 U.S.C. § 4241.

It is further **ORDERED** that the time period from **January 8, 2008** until the determination of Defendant's competency is **EXCLUDABLE DELAY**, for the purpose of computing time limits under 18 U.S.C. § 3161(h)(1)(A).

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: January 8, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 8, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS